



SACHI A. HAMAI
Chief Executive Officer

County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

May 24, 2016

To: Supervisor Hilda L. Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: Sachi A. Hamai
Chief Executive Officer

Board of Supervisors
HILDA L. SOLIS
First District

MARK RIDLEY-THOMAS
Second District

SHEILA KUEHL
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

COMMUNITY SERVICES AGREEMENT NO. 78391

On June 30, 2015, the Board of Supervisors approved a Community Services Agreement (the "Agreement") with the Lockheed Martin Corporation (the "Company") in relation to the Capital Investment Incentive Program (CIIP) authorized by California Government Code Section 51298. One of the Required General Preconditions for the Agreement to take legal effect was that the Company "shall have received award of a subcontract from the prime contractor for the manufacture of the new Advanced Strategic Aircraft Program for the United States Air Force." Because the Company was not awarded that subcontract, the required precondition triggering the implementation of the Agreement was not met. Therefore, the Agreement has no legal effect.

In relation to the above determination, our office will also provide notification to the Company. If you have any questions regarding this matter, please contact Doug Baron at (213) 974-8355.

SAH:JJ:DH
DSB:RM:mda

Attachment

c: Executive Office, Board of Supervisors
Auditor-Controller
County Counsel

Lockheed Board memo 5_16

"To Enrich Lives Through Effective And Caring Service"

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Intra-County Correspondence Sent Electronically Only***

COMMUNITY SERVICES AGREEMENT

THIS COMMUNITY SERVICES AGREEMENT No. 78391 (the "Agreement") is made and entered into on June 30, 2015 by and between the **COUNTY OF LOS ANGELES, CALIFORNIA** (the "**County**") and **LOCKHEED MARTIN CORPORATION**, a Maryland corporation (the "**Company**"). The County and Company are each a "**Party**" to this Agreement and are collectively referred to herein as the "**Parties**".

RECITALS

WHEREAS, the California Legislature has established the California Capital Investment Incentive Program by enacting California Government Code Section 51298 et seq. as in effect on the date of this Agreement (the "**Code**") to provide local governments with opportunities to attract large manufacturing facilities to invest in their communities and to encourage aerospace (and other) industries to locate and invest in those facilities in California; and

WHEREAS, Company wishes to expand and/or modify its Palmdale, California manufacturing facility (inclusive of contractor and government owned property) for the design, development and manufacture of the new Advanced Strategic Aircraft Program for the United States Air Force, and, in support thereof, to invest in that facility, including investments in real and personal property, necessary for the full and normal operation of that facility, in an estimated amount of Three Hundred and Eighty-Five Million Dollars (\$385,000,000) (the "**QMF**"); and

WHEREAS, the property on which the QMF is to be located is within the Merged Redevelopment Project Area, as amended, within the City of Palmdale, County of Los Angeles, which was carried out by the former Community Redevelopment Agency of the City of Palmdale;

WHEREAS, in reliance on Company's description of the QMF and its anticipated positive economic impact on the County and its residents, the Board of Supervisors on June 30, 2015, adopted its Resolution No. _____ Electing to Establish a Capital Investment Incentive Program, Approving a Written Request for CIIPs from the Lockheed Martin Corporation, and Approving and Authorizing the Execution of a

Community Services Agreement between the County and the Lockheed Martin Corporation to Provide for the Terms and Conditions for Payment of Capital Incentive Amounts (the "**Resolution**"), thereby establishing the legal framework for the Company to qualify for capital investment incentive amounts subject to the terms and conditions and in the manner and amounts described herein, and otherwise in accordance with the Code (the "**CIIP**"); and

NOW, THEREFORE, in consideration for the mutual promises and covenants contained herein and for other valuable consideration, the receipt, adequacy, and sufficiency of which is hereby acknowledged, the Parties enter into this Agreement on the following terms and conditions.

A G R E E M E N T

1. Payment Term and Dates.

The period during which any CIIP may be payable to Company by County shall be for fifteen (15) consecutive fiscal years, commencing with June 1 of the first fiscal year after the date upon which the QMF is certified for occupancy or, if no certification is issued, the first fiscal year after the date upon which the QMF commences operation (the "**Payment Term**"). Any amounts under- or over-paid in any fiscal year shall be added to or subtracted from the CIIP for the following fiscal year, with the final CIIP "true-up" to be made 90 days following the Payment Term.

2. Company's Commitments.

In consideration of the County providing the CIIPs, Company makes the following commitments to the County:

a) Company represents and warrants that the QMF will upon commencement of operation meet all requirements of the definition of a "qualified manufacturing facility" in Section 51298(b)(1) of the Code, and Company agrees to operate the QMF throughout the Payment Term in accordance with this Agreement and applicable provisions of the Code and so as to remain eligible for the CIIP;

b) Company meets, and shall continue to meet, all requirements to be considered the "Proponent," as such term is defined in Section 51298(b) of the Code, with respect to the QMF throughout the Payment Term;

c) The total capital investment amount in the QMF is estimated to be Three Hundred and Eighty-Five Million Dollars (\$385,000,000), inclusive of all

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purchases that support design, development and manufacturing at the QMF.

d) As a condition precedent to the payment of any CIIP in any fiscal year during the Payment Term, Company shall remit a community services fee in the form of a fee in lieu of tax (the "Fee") to the County for each fiscal year during the Payment Term in an amount equal to 25% of the CIIP calculated for Company for that fiscal year, except that in no fiscal year shall the amount of the Fee exceed \$2,000,000. **Exhibit A** to this Agreement is incorporated by reference into this Agreement and shall govern the administration of the Fee payments to the County as required by Section 51298(d) of the Code.

e) Company shall create jobs at the QMF of the type and with the compensation ranges set forth in the "Jobs Creation Plan" described at **Exhibit B** (hereby incorporated by reference into this Agreement), which satisfy the health benefits and average weekly wage requirements of Section 51298(d)(5) of the Code.

f) Company shall be and remain in good standing and qualified to do business in California, all in accordance with applicable California law, and shall remain qualified, in good standing and in compliance with all California laws (including but not limited to the Code) applicable to the QMF throughout the Payment Term.

g) Company shall have full legal authority to consummate, and shall not be prohibited from consummating, the transactions contemplated by this Agreement and shall be in full compliance with any applicable law, agreement, restriction, or order.

3. Required General Preconditions.

Prior to the County making any CIIP under this Agreement all of the events in the following subsections of this Section 3 (collectively, the "General Preconditions") shall have occurred:

a) This Agreement is executed by both of the Parties:

b) The Company shall have received award of a subcontract from the prime contractor for the manufacture of the new Advanced Strategic Aircraft Program for the United States Air Force:

c) The QMF shall have been certified for occupancy, or if no certification is issued, shall have commenced operation:

d) The Company shall have invested at least One Hundred and Fifty Million Dollars (\$150,000,000) in real and personal property necessary for the full and normal operation of the QMF and certification to that effect shall have been issued pursuant to the Code:

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e) The QMF shall be located in the City of Palmdale, County of Los Angeles;

f) The Company shall own or have entered into a long-term lease for the QMF;

g) The City Council of the City of Palmdale shall have adopted a resolution prior to July 1, 2015 electing to establish a capital investment incentive program for the QMF under the Code and the City of Palmdale shall have timely taken all necessary steps to effectuate such program pursuant to the Code prior to July 1, 2015;

h) The Job Creation Plan required by this Agreement shall have been created by the Company satisfying the description and requirements therefor set forth in Section 51298(d)(5) of the Code, and the Company shall have submitted reasonably satisfactory evidence thereof to the Chief Executive Officer of the County.

4. Required Annual Contingencies for any County Obligation to Make a CIIP.

In any fiscal year, in the event all of the General Preconditions set forth in Section 3 have occurred, and in the event the following events in the following subsections of this Section 4 have occurred for such fiscal year, then and only then shall the County thereupon become obligated to make a CIIP to the Company for that fiscal year:

a) The QMF has been operated by the Company during the fiscal year in compliance with this Agreement and the Code;

b) The Company has paid the Community Services Fee to the County for that fiscal year pursuant to this Agreement and the Code;

c) The Company has submitted by no later than May 1 of the fiscal year evidence reasonably satisfactory to the Chief Executive Officer showing that the Company has carried out the Job Creation Plan during such fiscal year as required by this Agreement and the Code;

d) The Company shall have neither sold nor transferred the real property on which the QMF is located, nor assigned or allowed the assumption of this Agreement, without the prior written approval of the County and the execution of the assignment and assumption agreement required in accordance with Section 10 of this Agreement, which approval shall not be unreasonably withheld or delayed;

e) The QMF has been operated during the fiscal year in the manner and by a business of the kind required by the Code;

f) The Company has paid its property taxes for the QMF currently and shall not be delinquent in the payment of such QMF property taxes; and

5. No Debt of the County.

THIS AGREEMENT CONSTITUTES A CONDITIONAL OBLIGATION OF THE COUNTY IMPOSED BY GOVERNMENT CODE SECTION 51298, ET SEQ. AND IMPLEMENTED BY THE RESOLUTION AND PAID PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. THIS AGREEMENT IS NOT A DEBT OF THE STATE OF CALIFORNIA OR ANY OF ITS POLITICAL SUBDIVISIONS (EXCEPT THE COUNTY) AND NEITHER THE STATE NOR ANY OF ITS POLITICAL SUBDIVISIONS (EXCEPT THE COUNTY) IS LIABLE FOR PAYMENT HEREUNDER. THIS AGREEMENT DOES NOT CONSTITUTE AN INDEBTEDNESS OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL DEBT LIMITATION OR RESTRICTION.

6. Annual Calculation of Any CIIP.

In consideration of Company investing in and operating the QMF as described in the Recitals and the economic benefit to the County and local community to be realized from that investment and operation, and in the event in any fiscal year during the Payment Term the County becomes indebted under the terms and conditions of this Agreement to make any annual CIIP pursuant to this Agreement, the County shall pay an annual CIIP to Company for such fiscal year, in an amount calculated as follows:

a) For purposes of calculating any CIIP under this Agreement, the Parties agree that the "**Existing Assessed Valuation**" of the property on which the QMF is to be located for any fiscal year shall be deemed to be the 2014 valuation of Three Hundred Seventeen Million Seven Hundred Fifty Seven Thousand and Seven Hundred and Sixty Three Dollars (\$317,757,763), less any "Assessment Appeal Reduction" as determined by the Assessment Appeals Boards for the existing open appeal 2014-004522. For purposes of calculating any CIIP under this Agreement, the Parties agree that the "**Assessment Appeal Reduction**" shall mean the difference between the Existing Assessed Valuation of the property as of 2014 and the final determination by the Assessment Appeals Board in the certain assessment appeal case filed by the Company for tax year 2014 and numbered 2014-004522.

b) For purposes of calculating any CIIP under this Agreement, the Parties agree that the "Increased Assessed Valuation" of the property on which the QMF is to be located for any fiscal year shall be deemed to be an amount equal to (x) the

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assessed valuation of the QMF on May 1 of that fiscal year, less (y) the sum of Twenty-Five Million Dollars (\$25,000,000) and (z) less the Existing Assessed Valuation.

c) The CIIP shall be an amount equal to (i) the amount of ad valorem property tax that would be derived by the County for the applicable fiscal year from taxation of the Increased Assessed Valuation of the property on which the QMF is located, subject to the Residual Limit set forth in the immediately following subsection d).

d) The CIIP shall be limited to the proportionate share of residual the County derives from the QMF in each relevant fiscal year after payment of all approved Enforceable Obligations (as defined below) for that fiscal year, defined as follows: First, the proportionate share of residual the County derives shall be calculated as a percentage by dividing the assessed value of the QMF by the total assessed value of the Palmdale Merged Project Area as shown on the rolls of the County for the relevant fiscal year; second, the percentage share derived in the first step shall then be multiplied by the total amount of residual generated by the Successor Agency of the Palmdale Merged Project for the relevant fiscal year after payment of all approved Enforceable Obligations (as defined below) for that fiscal year (the "**Residual Limit**").

e) Notwithstanding any other provision of this Agreement, any obligation of the County which may arise under this Agreement to make any CIIP shall be subordinate to the legal obligations of Division 24 (Community Development and Housing), Part 1.85 (Dissolution of Redevelopment Agencies and Designation of Successor Agencies), Sections 34170 et seq of the California Health & Safety Code, as amended (the "**Enforceable Obligations**"), including but not limited to the duties of the Auditor-Controller to allocate and pay such funds pursuant to Section 34183 et seq. of the California Health & Safety Code.

7. **Reporting; Ineligibility; Recapture; Waiver of Recapture; Adjustment upon Reassessment.**

a) **Annual Reporting.** Within 120 calendar days following the close of each calendar year, Company shall provide the County with an annual report comparing the proposed Job Creation Plan, as defined herein in **Exhibit B**, with the actual performance on the QMF for the previous fiscal year. This document shall serve as a potential basis of any recapture claims.

(b) **Ineligibility.** In any given year of the Payment Term Company

shall be ineligible to receive any portion of the CIIP for that fiscal year if: (i) Company shall be delinquent in the payment to the County of any portion of the Fee; (ii) Company shall construct the QMF in a manner materially different from the facility as described in building permit application materials submitted to the City of Palmdale; (iii) the requirements of Sections 3 and 4 are not fully satisfied for such fiscal year ; or (iv) the QMF no longer meets the definition and requirements set forth in the Code. If Company becomes ineligible to receive any portion of that year's CIIP during a fiscal year, the running of the number of consecutive fiscal years in the Payment Term is not tolled during the period in which Company is ineligible.

(c) **Company's Right to Cure.** If Company is deemed by the County to be ineligible for any CIIP, or if any CIIP is subject to recapture as provided in subsection (d) below, Company shall have 90 calendar days following receipt of written notice from the County of such alleged default, to rectify the condition.

(d) **Recapture.** If Company fails to operate the QMF as required by this Agreement, the County may recapture any portion of the CIIP theretofore made by the County, such recapture to be in an amount equal to the lesser of the following: (For purposes of this Agreement, "failure to operate a QMF as required by this Agreement" includes but is not limited to the failure to establish the number of jobs specified in the Jobs Creation Plan, attached at **Exhibit B**)

(1) All CIIP theretofore provided to Company, less all of the Fees theretofore received from Company, and less any portion of CIIP previously recaptured;

(2) The last annual CIIP amount provided to Company, less the last annual Fee amount received from Company, multiplied by 40% of the number of fiscal years remaining in the Payment Term, and less the amount of any portion of the CIIPs previously recaptured.

(e) **Waiver of Recapture; Good Cause.** If Company fails to operate the QMF as required by this Agreement, the County may in its sole and absolute discretion, upon a finding that good cause exists, waive any portion of the recapture of any CIIP due under this Agreement. For purposes of this Section, "good cause" shall include, but is not limited to, the following:

(1) Company has assigned, sold or leased the QMF to a person or entity who has entered into an agreement with the County to assume all of the

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responsibilities of Company under this Agreement.

(2) The QMF has been rendered inoperable and beyond repair as a result of an act of God, civil disorder, failure of power, riots, insurrections, war, acts of terrorism, or any other causes, whether the kind herein enumerated or otherwise, not within the control of the Company claiming good cause, which restrict or interfere with the QMF 's ability to timely perform, and which by the exercise of reasonable due diligence, Company would have been unable to prevent or overcome.

(3) Company's QMF customer terminates or modifies its subcontract with Company pertaining to the QMF, and the Company no longer is able to operate the QMF as required by this Agreement.

(f) **Adjustment for Reassessment.** In the event Company appeals the assessed value for any tax year not referred to above in Section 6(a), and the amount of *ad valorem* QMF property tax is, upon final resolution of any such appeal, revised downward, then the Parties shall recalculate the CIIP for such tax year, and the CIIP and any Fee due to the County for that tax year will be adjusted accordingly.

8. Costs and Expenses.

Subject to the provisions of Section 9 below, each Party agrees to pay its own costs incurred in connection with this Agreement, including, but not limited to, all costs incurred for the preparation of any reports or approvals for this Agreement or otherwise.

9. Indemnity.

The Parties acknowledge and agree that the County has made no assurance, representation, warranty or agreement that this Agreement constitutes an enforceable obligation of the County, and the Company releases and holds the County and its officers, employees and contractors harmless from any claim in that regard. The Company agrees to indemnify, defend and hold harmless the County for any costs, reasonable attorneys' fees, claims, or judgments incurred, asserted or entered, as applicable, against the County and/or its officers, employees and contractors arising from this Agreement, provided that the County and its officers, employees and contractors do not challenge the legality or enforceability of this Agreement. Company shall have the right to take over and manage the defense of any claim for which the County, its officers, employees and contractors seek indemnification.

10. Assignment; Transfer.

Company shall not assign or transfer this Agreement or any of its rights hereunder without receipt of the prior written consent of the County, which shall not be unreasonably withheld or delayed, and without the County approved assignee or transferee entering into an Assignment and Assumption Agreement in form and substance reasonably approved by the County, which provides for the assignee or transferee assuming all of the obligations of the Company under this Agreement.

11. Section Titles and Headings.

The section titles and headings are for convenience only and do not define or modify any of the terms and provisions hereof.

12. Waivers.

Waiver of any of the obligations of any Party under this Agreement will be effective only when in writing and acknowledged by the waiving Party. No delay or omission to exercise any right or power by any Party shall be construed to be a waiver. If any provision is waived by a Party, such waiver shall not be deemed to waive any other provision.

13. Notices.

All notices and consents required by or arising out of this Agreement shall be in writing and, unless otherwise required by law or regulation, shall be either (a) personally delivered, (b) sent by overnight courier, or (c) sent by United States Postal Service certified mail, return receipt requested, addressed to the receiving Party as described below:

To the County of Los Angeles:

Chief Executive Officer
County of Los Angeles
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713
Los Angeles, California 90012

With a copy to:

To Company:

Palmdale Senior Site Executive
Lockheed Martin Corporation
Lockheed Martin Aeronautics Company
1011 Lockheed Way
Palmdale, California 93599

General Counsel
Lockheed Martin Corporation
Lockheed Martin Aeronautics
Company
P. O. Box 748
Fort Worth, TX 76101

General Counsel
Lockheed Martin Corporation
Properties, Inc.

or to such other address as the receiving Party shall have most recently forwarded to the sending Party pursuant to the provisions of this Section.

14. Counterparts.

This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one Party, but all such counterparts taken together will constitute one and the same instrument.

15. Entire Agreement; Amendment.

This Agreement fully sets out the complete agreement of the Parties and supersedes all prior and collateral communications and agreements of the Parties relating to the subject matter. This Agreement includes the Recitals and all exhibits attached hereto or referenced herein, all of which are hereby incorporated by reference. This Agreement may be amended only by a written modification executed by each of the Parties' duly authorized representatives.

16. Governing Law; Venue.

The governing law of this Agreement shall be the law of the State of California applicable to contracts made and performed in California. In the event any litigation is brought by any Party arising from this Agreement, such action shall be filed in the appropriate court located in the County of Los Angeles.

17. Cooperation.

The Parties shall mutually cooperate in order to effectuate the provisions of this Agreement, including without limitation cooperation in the event of a challenge to the legality or enforceability of this Agreement.

18. Interpretation of Agreement Not Against Drafting Party.

Each party and their legal counsel have participated fully in the preparation of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement as of the Effective Date.

LOCKHEED MARTIN CORPORATION COUNTY OF LOS ANGELES, CALIFORNIA

By: _____
Name: ORIGINAL _____
Title: SIGNED _____
Date: _____

By: Mike Antonovich
Michael D. Antonovich, Mayor, Board of Supervisors

IN WITNESS OF WHICH, I have signed this document and affixed the seal of the Board of Supervisors of the County of Los Angeles this 30th day of June, 2015.

PATRICK OGAWA,
Acting Executive Officer-Clerk Board of
Supervisors of the County of Los Angeles
By: Ant
Deputy

APPROVED AS TO FORM:

MARY C. WICKHAM
Interim County Counsel

By: Thomas R. Parker
Thomas R. Parker
Deputy County Counsel



I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

PATRICK OGAWA
Acting Executive Officer
Clerk of the Board of Supervisors

By: Ant
Deputy

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

19 JUN 30 2015

Patrick Ogawa
PATRICK OGAWA
ACTING EXECUTIVE OFFICER

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement as of the Effective Date.

LOCKHEED MARTIN CORPORATION COUNTY OF LOS ANGELES, CALIFORNIA

By: L. Knudsen
Name: Leslie Knudsen
Title: Senior Manager - Contracts
Date: June 28, 2015

ORIGINAL
SIGNED
By: _____
Michael D. Antonovich, Mayor, Board of Supervisors

IN WITNESS OF WHICH, I have signed this document and affixed the seal of the Board of Supervisors of the County of Los Angeles this 30th day of June, 2015.

PATRICK OGAWA,
Acting Executive Officer-Clerk Board of
Supervisors of the County of Los Angeles

ORIGINAL
SIGNED
By: _____
Deputy

APPROVED AS TO FORM:

MARY C. WICKHAM
Interim County Counsel

By: Thomas R. Parker
Thomas R. Parker
Deputy County Counsel